IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

Date of Order : 4.1.2005

S.B. CIVIL WRIT PETITION NO.2046/2003

Damodar Prasad Sarda vs. State of Rajasthan & ors.

HON'BLE MR. PRAKASH TATIA, J.

Mr. Rajendra Kothari for Mr.S.G.Ojha, for the petitioner.

Mr. L.R. Upadhyay, for the respondents.

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Heard learned counsel for the parties.

Brief facts of the case are that according to the petitioner in the year 1961, the grand father of the petitioner gave a proposal for establishing a girls school at Taranagar and as such, he approached the State Government for raising the school building. The State Government agreed that he may construct the building and the State Government will run its girls school in the building and the State Government further agreed that the name of the school shall be “Government Indramani Sarda Balika Vidhyalaya, Taranagar”. The said school started functioning in due course of time. The school was initially upto Primary Level but gradually its level was increased to Middle School and then to Secondary level and thereafter to Senior Secondary Level. The name of school was changed according to the grade of the school like Middle School,

Secondary School and Senior Secondary School keeping the name of Indramani Sarda as it is.

According to the petitioner, now the State Government has decided to shift the classes IX to XII from the petitioner's named school to a newly constructed building. The State Government also decided to change the name from Government Indramani Sarda Senior Secondary School to Government Indramani Upper Primary School. According to the petitioner, the action of the respondents is contrary to the assurance given by the respondents and also not bonafide. It is also submitted that the petitioner was ready to invest any amount for raising the building standard of the school if needed so that the students upto the standard of XII can be accommodated. According to learned counsel for the petitioner, no opportunity of hearing was given by the respondents before degrading the said school and, therefore, principles of natural justice were violated by the respondents.

I have considered the submissions of the learned counsel for the petitioner.

So far as the question of having a name of school in the name of donor is concerned, it is not challenged nor it is being disputed by the respondents. The name in which the petitioner could have interest is “Indramani Sarda”. Rest of the words used in the complete name of the school indicates only the grade of the school. The petitioner has

no right to claim that the respondents should keep the school upgraded which has been raised much after building was given by the petitioner's grand father. The petitioner's grand father gave the building for running a school. The school is being run in the same building. The petitioner should not have raised any grievance because the petitioner cannot claim any right over the name which represents only the grade of the school. The petitioner's school was upgraded from Middle to Secondary and thereafter to Senior Secondary grade and on those occasions, the grade of the school was clearly incorporated in the full name of the school. The petitioner once accepted the change of name according to the grade of the school, cannot have any grievance for changing the name according to the reduction in the grade of the school.

The claim of the petitioner that he should have been given an opportunity of hearing before changing the name of the school or before shifting the Classes IX to XII to newly constructed building has no legal basis. The petitioner's grand father donated the building. The petitioner, if, can claim, then he can claim only about keeping the name for the school which depends upon not only the terms and conditions of the contract between the donor and beneficiary but also when the matter is relating to education and state function than, on other circumstances also. The petitioner has not pleaded that any assurance in any form was given to the petitioner's grand father that the respondent will not upgrade or downgrade the school in

future.

It may also be observed that the petitioner's grand father donated the building than the petitioner is not successor in interest in the building. Not only this, but as per the reply and Annex.R/2, the authorities considered the claim of the petitioner and rejected his contention.

In view of the above discussion, this writ petition is absolutely misconceived. I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya